

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**NATIONAL RIFLE ASSOCIATION OF
AMERICA,**

Plaintiff and Counter-Defendant

and

WAYNE LAPIERRE,

Third-Party Defendant,

V.

ACKERMAN MCQUEEN, INC.,

Defendant and Counter-Plaintiff,

and

MERCURY GROUP, INC., HENRY MARTIN, WILLIAM WINKLER, MELANIE MONTGOMERY, and JESSE GREENBERG,

Defendants.

**PLAINTIFF NATIONAL RIFLE ASSOCIATION OF AMERICA’S
MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT**

Pursuant to Rule 15 of the Federal Rules of Civil Procedure, Plaintiff National Rifle Association of America (the “NRA”) respectfully moves the Court for leave to file its Second Amended Complaint, attached to the accompanying Brief in Support as Exhibit “1.”

The NRA moves to file the Second Amended Complaint within the time frame permitted by the Court in the governing scheduling order.¹ This Court should grant the NRA's motion

¹ ECF No. 174.

because per Rule 15, the Court “should freely give leave [to amend] when justice so requires.”² Allowing the NRA to file the Second Amended Complaint would serve justice and promote judicial efficiency. Further, there would be no substantial or undue prejudice against Defendants, bad faith, undue delay, or futility.

As further discussed in the accompanying brief, the NRA seeks to amend its complaint to add a new claim for trademark infringement against Defendants; to add new allegations, arising from information that has been uncovered during discovery, specific to Defendant Mercury Group, Inc., regarding fraud and conspiracy; to revise the conversion cause of action in order to address the Court’s holding in its opinion³ regarding Defendants’ motion to dismiss, to allege that Defendants misappropriated the NRA’s confidential information;⁴ to remove the breach of fiduciary duty claim against the individual defendants; and, to remove the copyright infringement claim, which the Court dismissed without leave to replead in its Order dated September 14, 2020.

For all these reasons, and those stated in the accompanying Brief in Support, the NRA respectfully requests that the Court grant Plaintiff’s leave to file the attached Second Amended Complaint.

² Fed. R. Civ. P. 15(a)(2).

³ ECF No. 165.

⁴ ECF No. 165.

Dated: February 11, 2021

Respectfully submitted,

BREWER, ATTORNEYS & COUNSELORS

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**ATTORNEYS FOR THE PLAINTIFF
COUNTER-DEFENDANT NATIONAL RIFLE
ASSOCIATION OF AMERICA**

CERTIFICATE OF CONFERENCE

I hereby certify that I, counsel for Plaintiff, conferred via email with all counsel of record on February 11, 2021 regarding the Motion for Leave to File Second Amended Complaint. Counsel for Wayne LaPierre indicated that he is not opposed to this Motion, and I did not receive a final answer regarding whether or not this Motion is opposed by counsel for Ackerman McQueen.

/s/Alessandra P. Allegretto

Alessandra P. Allegretto

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was electronically served via the Court's electronic case filing system upon all counsel of record on this 11 day of February 2021.

/s/Alessandra P. Allegretto

Alessandra P. Allegretto